

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF PENNSYLVANIA  
PITTSBURGH DIVISION**

WENDELL H. STONE COMPANY, INC.  
d/b/a STONE & COMPANY, individually and  
on behalf of all others similarly situated,

Plaintiff,

v.

PC SHIELD INC., an Oklahoma corporation,  
and BRANDIE M. JORDAN, an individual,

Defendants.

Case No. 2:18-cv-01135-AJS

**PLAINTIFF’S MOTION FOR CLASS DECERTIFICATION AND DISMISSAL**

Plaintiff Wendell H. Stone Company, Inc. d/b/a Stone & Company (“Plaintiff” or “Stone”), individually and on behalf of a class of similarly-situated individuals, moves the Court for an Order decertifying the class and dismissing this case without prejudice. In support of its motion, Plaintiff states as follows:

1. On August 27, 2018, Plaintiff bought this class action lawsuit pursuant to the Telephone Consumer Protection Act, as amended by the Junk Fax Prevention Act of 2005, 47 U.S.C. § 227, *et seq.* (“JFPA” or “Act”), challenging Defendants PC Shield, Inc.’s (“PC Shield”) and Brandie M. Jordan’s (“Jordan”) (collectively “Defendants”) practice of sending unsolicited fax advertisements. Plaintiff filed its First Amended Complaint on June 19, 2019. (Dkt. 21.)

2. On June 22, 2019, Plaintiff served a copy of the First Amended Complaint, Summons, and initiating documents on both Defendants. (Dkts. 23, 24.)

3. Neither Defendant responded to Plaintiff’s First Amended Complaint.

4. On August 13, 2019, the Clerk of Court, pursuant to Rule 55(a), entered default against both Defendants. (Dkts. 29, 30.)

5. On October 8, 2019, Plaintiff filed its Renewed Motion for Class Certification.  
(Dkt. 36.)

6. On December 4, 2019, the Court granted Plaintiff's Renewed Motion for Class Certification and certified the following Class:

All persons who (1) on or after four years prior to the filing of this action, (2) were sent, by Defendants or on Defendants' behalf an unsolicited telephone facsimile message substantially similar to Exhibit A, (3) from whom Defendants claim they obtained prior express permission or invitation to send those faxes in the same manner as Defendants claim they obtained prior express consent to fax Plaintiff.

(Dkt. 40.)

7. Thereafter, Class Counsel conducted further investigation into the Defendants' business practices. Class Counsel was unable to ascertain the vendor or system that Defendants utilized to send the faxes. Further, Class Counsel was unable to locate any evidence to ascertain the class members.

8. Further, Plaintiff was also unable to formulate a notice plan that would effectively and fairly apprise class members of their legal rights.

9. Consequently, for the reasons set forth in this Motion and the accompanying memorandum in support of, Plaintiff requests that the Court grant its Motion for Class Decertification and Dismissal.

WHEREFORE, Plaintiff respectfully requests that the Court grant its Motion, decertify the Class, dismiss this lawsuit without prejudice, and grant such other relief as the Court deems necessary and just.

Respectfully,

Dated: March 3, 2020

STONE & COMPANY, INC., individually,  
and on behalf of all others similarly situated,

/s/ Patrick H. Peluso  
One of Plaintiff's Attorneys

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*Counsel for Plaintiff and the Putative Class*

*\*pro hac vice admission*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the above titled document was served upon counsel of record by filing such papers via the Court's ECF system on March 3, 2020.

/s/ Patrick H. Peluso